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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/671,736	09/29/2000	Gregory T. Osterhout	11889RR/56130.000011	2264
7590	03/07/2006		EXAMINER	
Hunton & Williams 1900 K Street NW Washington, DC 20006-1109			RYMAN, DANIEL J	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-10

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/671,736	OSTERHOUT ET AL.
	<b>Examiner</b> Daniel J. Ryman	<b>Art Unit</b> 2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 February 2006.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                      | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>· Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Examiner acknowledges Applicant's filing of an RCE on 8 February 2006.
2. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6-9, 11-15, 18-21, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickering et al. (USPN 6,628,666), of record, in view of Oran (USPN 6,275,574), of record, in further view of Allain et al. (USPN 6,449,259).
5. Regarding claims 1 and 13, Pickering discloses a system for adaptively placing a call via one of a plurality of transmission modes, comprising: a first interface (interface between telephone and computer) to a telephone device (col. 5, line 60-col. 6, line 12); a second interface (internet interface or telephone interface) to at least one communications link (col. 5, line 60-col. 6, line 12); and a host (ref. 202: computer), communicating with the first interface and the second interface, the host, after receiving a call initiation request via a first interface, selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection via the at least one communications link according to at least one transmission criterion (col. 6, lines 30-67).

Pickering does not expressly disclose that the first interface is to a network-enabled telephone device; however, Pickering does disclose communicating over the internet using a phone device (col. 5, line 60-col. 6, line 12). Oran teaches, in a telecommunications system, that network-enabled telephones are well known (col. 3, lines 6-9) where it is implicit that these phones are used for communication over packet networks. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a network-enabled telephone device as the telephone device since these devices are known in the art as a way to direct telephone calls over a packet network.

Pickering in view of Oran does not expressly disclose that the transmission criteria are user-defined transmission criteria. Allain teaches, in a system for determining which network to route a communication over, using a user defined transmission criteria in order to determine the best network for the communication (see ref. 104; col. 4, lines 31-39; and col. 7, lines 4-24). It is implicit that Allain's system permits a user to set a QoS level that is acceptable for that user. As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to use user-defined transmission criteria in order to permit a user to define for himself or herself the communication parameters for communication.

6. Regarding claims 2 and 14, Pickering in view of Oran in further view of Allain suggests that the network-enabled telephone device comprises a SIP-enabled telephone device (Oran: col. 1, lines 28-32).

7. Regarding claims 3 and 15, Pickering in view of Oran in further view of Allain does not expressly disclose that the first interface comprises a USB connection; however, Pickering in view of Oran in further view of Allain does disclose that the telephone and the host can be

Art Unit: 2665

connected using a variety of different connections known in the art (Pickering; col. 4, lines 44-67). Examiner takes official notice that a USB connection is a very old and well-known way in the art to connect together two devices. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a USB connection since USB connections are a very old and well known way in the art to connect together two devices.

8. Regarding claims 6 and 18, Pickering in view of Oran in further view of Allain discloses that the host comprises a computer (Pickering: col. 5, line 60-col. 6, line 12 and col. 6, lines 30-67).

9. Regarding claims 7 and 19, Pickering in view of Oran in further view of Allain discloses that the at least one transmission criterion comprises at least one of cost, time of day, day of week, user-defined routing data, packet delay and signal to noise ratio (Pickering: col. 3, lines 5-8 and col. 6, lines 30-67).

10. Regarding claims 8 and 20, Pickering in view of Oran in further view of Allain discloses that the call comprises a telephone call (Pickering: col. 6, lines 30-67) and that the at least one communications link comprises the public switched telephone network (Pickering: col. 5, line 60-col. 6, line 12 and Oran: col. 3, lines 6-9 and col. 3, lines 31-40) where a network-enabled phone is connected to a PSTN-IP converter (host) having an interface to the PSTN in order to connect a network-enabled phone to the PSTN.

11. Regarding claims 9 and 21, Pickering in view of Oran in further view of Allain discloses that the call comprises a data connection and the at least one communications link comprises the Internet (Pickering: col. 5, line 60-col. 6, line 12).

Art Unit: 2665

12. Regarding claims 11 and 23, Pickering in view of Oran in further view of Allain discloses that the host selectively retries at least a data connection to reassess transmission conditions (Pickering: col. 6, lines 61-67).

13. Regarding claims 12 and 24, Pickering in view of Oran in further view of Allain discloses that the at least one communications link comprises a plurality of communications links, and the host selectively activates one of the communications links according to the at least one transmission criterion (Pickering: col. 6, lines 30-67).

14. Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickering et al. (USPN 6,628,666), of record, in view of Oran (USPN 6,275,574), of record, in further view of Allain et al. (USPN 6,449,259) as applied to claims 4 and 16 above, and further in view of Alperovich et al. (USPN 6,728,215), of record.

15. Regarding claims 4 and 16, Pickering in view of Oran in further view of Allain does not expressly disclose that the first interface comprises a wireless interface. Alperovich teaches, in telecommunication system, having a first interface comprise a wireless interface (col. 3, lines 10-28) where it is implicit that this allows a user to communicate with a wireless phone. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the first interface comprise a wireless interface since wireless connections enable greater mobility to a user.

16. Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickering et al. (USPN 6,628,666), of record, in view of Oran (USPN 6,275,574), of record, in further view of Allain et al. (USPN 6,449,259) as applied to claims 4 and 16 above, and further in view of Bridgman et al. (USPN 6,523,062), of record.

Art Unit: 2665

17. Regarding claims 5 and 17, Pickering in view of Oran in further view of Allain does not expressly disclose that the host comprises a Wireless Markup Language module; however, Pickering in view of Oran in further view of Allain does disclose that a variety of data types can be exchanged with Pickering in view of Oran in further view of Allain's inventive system (voice, data, video) (Pickering: col. 7, lines 25-29). Bridgman discloses that Wireless Markup Language is "an industry standard protocol specification created for mobile internet use" (col. 1, lines 19-55). It would have been obvious to one of ordinary skill in the art at the time of the invention to have the host comprise a Wireless Markup Language module since WML is an industry standard protocol specification created for mobile internet use.

18. Claims 10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickering et al. (USPN 6,628,666), of record, in view of Oran (USPN 6,275,574), of record, in further view of Allain et al. (USPN 6,449,259) as applied to claims 1 and 13 above, and further in view of Kuthyar et al. (USPN 5,768,513), of record.

19. Regarding claims 10 and 22, Pickering in view of Oran in further view of Allain does not expressly disclose a media management module, the media management module executing at least one of a cordless telephone operation, an answering machine operation, a pager operation, an intercom operation, and an audio/visual operation via the network-enabled telephone device; however, Pickering in view of Oran in further view of Allain does disclose that various types of information can be communicated over various connections with Pickering in view of Oran in further view of Allain's inventive system (Pickering: col. 7, lines 25-29). Kuthyar teaches using a media management module to execute an answering machine operation such that messages can be left for a called party (col. 1, line 64-col. 2, line 35). It would have been obvious to one of

ordinary skill in the art at the time of the invention to have a media management module, the media management module executing at least one of a cordless telephone operation, an answering machine operation, a pager operation, an intercom operation, and an audio/visual operation via the network-enabled telephone device in order to allow messages to be left for a called party.

*Conclusion*

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Curry et al. (USPN 6,078,582) see entire document which pertains to determining whether a call should be completed on the PSTN or Internet depending on the call requirements of a particular call. Beyda et al. (USPN 5,995,607) see entire document which pertains to determining whether a call should be completed on the PSTN or Internet depending on the call requirements of a particular call. Farris (USPN 6,064,653) see entire document which pertains to routing a voice call over the PSTN during periods of unacceptable network conditions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2665

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJR  
Daniel J. Ryman  
Examiner  
Art Unit 2665



HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600